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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,511

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Alan H. Winfield

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CANADA

EXAMINER

CAJILIG, CHRISTINE T

ART UNIT

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3633

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,511	<b>Applicant(s)</b> WINFIELD, ALAN H.	
	<b>Examiner</b> CHRISTINE T. CAJILIG	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/29/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 8 is objected to because of the following informalities: (1) The word "then" in line 2 of the claim should be "than." (2) Claim 8 also recites "the first desiccant material; however, "a first desiccant material" was not recited in claim 1 from which claim 8 depends. For purposes of examination, "the first desiccant material" will be interpreted as referring to the desiccant material contained within the spacing member. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoneback (U.S. Patent No. 2,276,112) in view of Shinagawa (U.S. Patent No. 4,658,553).

Regarding claim 1, Stoneback in Figures 4-6 discloses a heat insulation window comprising an inner pane (13) and an outer pane (11) defining an air space (14) therebetween and a frame (10) surrounding a perimeter of the window, wherein the frame comprises at least one desiccant concealing member (30) which is hollow and detachable from the frame; a desiccant cartridge (20) removably disposed within the

Art Unit: 3600

desiccant concealing member and conduit means (22) for providing gas communication between the air space and the desiccant cartridge; wherein the desiccant concealing member and the desiccant cartridge are positioned adjacent to the inner pane (13), such that the inner pane (13) is between the airspace, and the desiccant concealing member (30) and the desiccant cartridge (20).

Stoneback does not disclose a spacing member disposed between the inner and outer panes which maintain the panes in a spaced-apart relationship, the spacing member being hollow and defining openings permitting gas communication between the air space and the interior volume of the spacing member; and a desiccant material contained within the spacing member.

Hollow spacing members between two panes of glass are old and well known in the art of windows. Nonetheless, Shinagawa in Figures 7 and 9 discloses an insulated window comprising a transparent spacing member (17) along edges of two glass panes, the spacing member disposed between the inner and outer panes which maintain the panes in a spaced-apart relationship, the spacing member being hollow and defining openings (172a) permitting gas communication between the air space and the interior volume of the spacing member; and a desiccant material (15) contained within the spacing member to maintain the space between two glass panes without obstructing the view through the window.

It would have been obvious to a person having ordinary skill in the arts at the time of the Applicant's invention to modify the structure of Stoneback to have a spacing member disposed between the outer panes which maintain the panes in a spaced-apart

Art Unit: 3600

relationship, the spacing member being hollow and defining openings permitting gas communication between the air space and the interior volume of the spacing member; and a desiccant material contained within the spacing member as taught by Shinagawa to provide reinforcing and maintained spacing between the two glass panes. Per the modification, the inner pane would be between the spacing member, which is placed between the inner and outer panes, and the desiccant concealing member and desiccant cartridge.

Regarding claim 2, Stoneback already modified by Shinagawa discloses the structure above and further discloses that the conduit means provides gas communication between the interior volume of the spacing member and the desiccant cartridge.

Regarding claim 3, Stoneback already modified by Shinagawa discloses the structure above and further discloses that the desiccant cartridge (20) comprises an elongated cylindrical tube (36).

Regarding claim 4, Stoneback already modified by Shinagawa discloses the structure above and further discloses that desiccant concealing member (30) is elongated and has a substantially U-shaped cross-sectional profile.

Regarding claim 5, Stoneback already modified by Shinagawa discloses the structure above and further discloses that the cross-sectional profile comprises two linear segments (27, 30) joining at a substantially right angle.

Regarding claim 6, Stoneback already modified by Shinagawa discloses the structure above and further discloses that the frame (10) comprises an outer channel

Art Unit: 3600

member (where 11 rests), an inner channel member (28), a web member (a) disposed between the outer and inner channel members, wherein the desiccant concealing member is detachably connected to the inner channel member (via 29).

Regarding claim 7, Stoneback already modified by Shinagawa discloses the structure above and further discloses that the desiccant concealing member comprises a first lip (diagonal leg of 29) and a second lip (horizontal leg of 29) which each engage an undercut groove in the inner channel member (28), but does not disclose that the desiccant concealing member is comprised of a resilient material. However, it would have been obvious to one having ordinary skill in the art at the time of invention to use a resilient material (such as plastic), since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stoneback (U.S. Patent No. 2,276,112) in view of Shinagawa (U.S. Patent No. 4,658,553) as applied to claim 1 above, and further in view of Reid, Jr. et al. (U.S. Patent No. 3,151,951).

Regarding claim 8, Stoneback already modified by Shinagawa discloses the structure above, and further discloses that a second desiccant material (35) is contained within the desiccant cartridge.

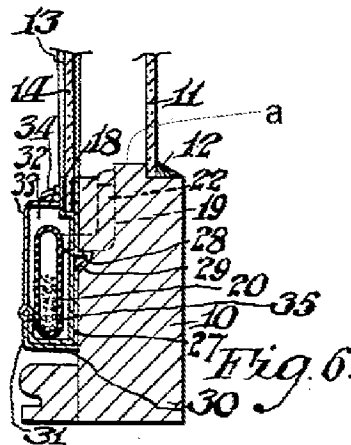
Stoneback modified by Shinagawa does not disclose that the second desiccant material has a higher affinity for water than the desiccant material within the spacing member.

Reid, Jr. et al. discloses that desiccants with varying affinity for water have been known and used in the art (Col 1, Ln 20-21).

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to have the second desiccant material in the cartridge to have a different and higher affinity for water than the desiccant material within the spacing member because Reid et al. has taught that using desiccant materials of varying affinities for water were known and within the ordinary skill in the art. Because the cartridge is more accessible than the spacer, the desiccant in the cartridge can have a higher affinity for water because it can be easily replaced.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time of invention to use desiccants of different water affinities, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Finally, Applicant's specification has not set forth any criticality as to why the desiccant in the cartridge should have a higher affinity for water than the desiccant in the spacer.



Stoneback '112

### ***Response to Arguments***

Applicant's arguments filed 4/29/2008 have been fully considered but they are not persuasive.

On pages 7-8 of the Remarks, Applicant argues that claim 1 as amended would overcome the rejection because Stoneback and Shinagawa do not disclose that the "desiccant concealing member and the desiccant cartridge are positioned adjacent to the inner pane." However, as shown in Figure 4 of Stoneback, the desiccant cartridge (20) and the desiccant concealing member (30) are indeed positioned adjacent the inner pane (13).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP



Art Unit: 3600

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINE T. CAJILIG whose telephone number is (571)272-8143. The examiner can normally be reached on Monday - Thursday from 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571) 272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3600

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. T. C./  
Examiner, Art Unit 3633  
6/13/2008

/Robert J Canfield/  
Supervisory Patent Examiner, Art Unit 3635